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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,349	08/21/2001	Roy McGee	776	7836

7590

05/09/2002

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EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 05/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,349

Applicant(s)

MCGEE ET AL.

Examiner

Joseph M Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The examiner acknowledges Applicant's submission of the amendment filed 3/14/02. Claims 1-6 remain pending.

Claim Rejections - 35 USC § 102

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6075229 to Vanselow.

Referring to Figures 1-4, Vanselow discloses the claimed invention exactly as claimed, including a mug 30, lid 34, base 12, 20, and 12 volt adapter plug 47. It is noted that the plug 47 is inserted into a "power receptacle," which limitation imposes no constraints on the nature of the power supply, and hence does not preclude a 12 volt source.

Claim Rejections - 35 USC § 103

3. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanselow.

While Vanselow discloses an essentially continuously adjustable thermostat, and does not explicitly disclose a flexible heater, such cannot be regarded to patentably distinguish the claimed invention from the prior art. It would have been obvious to modify the temperature control of Vanselow to have only two settings to reduce the cost of the device, and to utilize a flexible heater, regarding the details of which Vanselow is silent, since these are conventional heater means to apply to a flat surface.

Response to Arguments

4. Applicant's arguments filed 3/14/02 have been fully considered but they are not persuasive.

Applicant lists 5 limitations which are asserted to patentably distinguish the claimed invention from the heated mug and base of Vanselow. The examiner will address these in order:

- "a lid" - Vanselow discloses a lid 34, as previously noted.
- "...heating elements retained within a base AND powered by 12 volts DC" - Vanselow discloses a heating element 41 in a base 12 and 12 volt power supply capability 47.
- "The ability to use the base with a standard drinking mug" - Claim 1 recites "a cup with handle" and amended claim 2 recites "a generally standard drinking vessel," neither of which precludes the mug of Vanselow.
- "a power plug is capable of connecting directly to a motor vehicle's power system." The 12 volt DC adapter of Vanselow allows exactly this.
- "a flexible resistive type heater... [in the] ...holder, to provide heat" directly to the mug. As noted in item 3 above, such a heater is well known, and one of many types available for domestic heating devices.

The balance of Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

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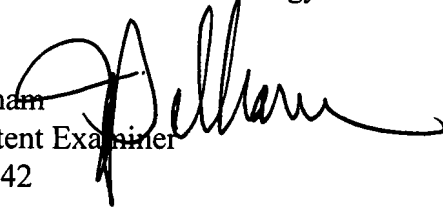
Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication should be directed to Joseph Pelham, at (703)308-1709. Status inquiries of a general nature should be directed to the Technology Center 3700 receptionist at (703) 308-0861.

Joseph Pelham
Primary Patent Examiner
Art Unit 3742



JP
May 6, 2002